
Co-operative Energy Ltd

Comments on

Essential Services Ombudsman

Consultation Paper

Department of Treasury and Finance

April 2000

The following comments are in response to the consultation paper released by the Government on its commitment to establish an independent Essential Services Ombudsman.

The comments on the consultation paper are followed by four attachments which are critical to understanding the contribution and perspective of co-operatives – Co-operative Energy Ltd, ICA Statement on the Co-operative Identity, Electric Co-ops USA and Energy Consumer Bill of Rights.

Submission: Essential Services Ombudsman

1. Introduction identifies the government's commitment to an independent, fair and cost-effective external complaint handling mechanism for essential utility industry.
2. This is supported. It is not clear from the subsequent sections of the paper, however, how the discussion relates to this rationale. Section 3.4, for instance, discusses the independence of the Ombudsman. Modifications are proposed but these are not discussed in terms of how they relate to the independence of the Ombudsman – in which way they would strengthen what independence and whether there are other modifications that could strengthen this independence.
3. In 3.1 Coverage of the Essential Services Ombudsman is discussed. The rationale for a single Ombudsman is supported provided this is not viewed as a cost savings measure and the Ombudsman is appropriately resourced.
4. In 3.2 Powers of the Ombudsman it is stated that the Ombudsman should have sufficient power to ensure adequate redress of customers. This is supported.
5. Section 3.2 also refers to the public reporting of complaints. At present, the public reporting of complaints is aggregated and information is not provided on an individual company basis. Consumers have a right to know what complaints have been raised about what companies and with what outcomes. This information disclosure is necessary and consistent with competition policy – to inform consumers about the companies they are

dealing with and, in the case of retailers, could influence their switching behavior.

6. Section 3.4 Independence of the Ombudsman discusses the fundamental issue of the actual and perceived independence of the Ombudsman. This is critical to the integrity of the scheme. While it is a check, direct customer representation on the EIOV Board does not in itself protect the independence of the Ombudsman. In 7 we discuss the nature of these customer representatives. The independence of the Ombudsman would be enhanced by the following – Government funding of the Ombudsman's salary, introducing fixed terms of appointment for the Ombudsman with the option of renewal, removing the ability of the Board to appoint or terminate the Ombudsman and set terms of reference of the Ombudsman's appointment and provide for this appointment to be made by the Government from a panel of three with the Board having final approval of a two-thirds majority. In addition, the Chairman of the EIOV Board should be appointed by the Government but subject to approval by a two-thirds majority of the EIOV Board and a majority of members at a General Meeting.
7. At present, three customer representatives are appointed to the EIOV Board by ORG after consultation with its Customer Consultative Committee. This requires a number of questions about this process – the 'representativeness' of the Customer Consultative Committee, the transparency and accountability of the Committee to whom and how, whether membership of the Customer Consultative Committee is an implicit prerequisite to appointment to the Board of Directors of the EIOV, what is the nature, transparency and accountability of ORG's consultation with its Committee.
8. The independence of the Ombudsman is critically determined by the resourcing of the Ombudsman. Unfortunately, there is no discussion on the relationship between the resourcing and independence of the Ombudsman. This would have required a transparent analysis of the annual budget of the ombudsman and the types of expenditure. The ombudsman should not, for example, be dependent on the discretion of utilities regarding the distribution of information about the EIOV scheme to consumers. The ombudsman should be able to independently fund the Ombudsman's information program.
9. There is insufficient discussion of overlapping jurisdiction with the EIOV – by the Victorian Office of Fair Trading and Business Affairs, the Australian Competition and Consumer Commission and the Office of the Regulator-General, Victoria. In the absence of this discussion, it is not possible to make a meaningful comment.

15 May 2000

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The co-operative has been involved in the following working groups of the Office of the Regulator-General, Victoria:

- Contestability Reference Group (Electricity)
- Minimum Standards Working Group (Electricity)
- Minimum Retail Standards Working Group (Gas)

The co-operative has made the following submissions to ORG's distribution pricing review and minimum retail standards review:

- **Capital Consultation**, Submission to Distribution Pricing Review Consultation Paper No 4, 4 June 1999
- **Competition Standards**, March 2000
- **Consumer Aggregation**, Prepared for Gateway BEET Inc, 1999-2000
- **Contestability Benefits & Costly Risks**, Submission to Distribution Pricing Review Consultation Paper No 2, 10 February 1999
- **Co-op Power is Community Power, Prepared for North East Victoria Energy Purchasing Group**, 1999-2000
- **Group Buying Power Bibliography**, February 2000
- **Small Consumer Empowerment** (Revised) 2000
- **The Energy Trade Off**, February 2000
- **The Form of Price Control and Consultation**, Submission to Distribution Pricing Review Consultation Paper No 3, 22 January 1999
- **2001 Electricity Distribution Price Review Framework and Approach**, Submission to Distribution Pricing Review, 13 July 1998
- **2001 Electricity Distribution Price Review Framework and Approach**, Submission to Distribution Pricing Review, 27 July 1998

The co-operative has also published the following reports:

- **Consumer Aggregation**, Prepared for Gateway BEET Inc, 1999 – 2000
- **Co-op Power is Community Power**, Prepared for North East Victoria Energy Purchasing Group, 1999 – 2000
- **Group Buying Power Bibliography**, February 2000
- **Regional Energy Options**, North East Victoria Energy Purchasing Group, 2000
- **Small Consumer Empowerment**, 1999
- **Union Energy: Empowering Small Consumers**, Union Energy Project, 2000

The co-operative is a member of:

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- Co-operative Federation of Victoria Ltd
- Co-operative Purchasing Services Ltd
- National Rural Electric Cooperative Association (USA)
- Victorian Local Governance Association

The co-operative is involved in the following advocacy, education and aggregation projects:

- The North West Project
- The North East Project
- The Co-opEnergy Purchasing Group Project
- The Union Energy Project

ICA Statement on the Co-operative Identity

Definition

A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.

Values

Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

Principles

The cooperative principles are guidelines by which cooperatives put their values into practice.

1st Principle: Voluntary and Open Membership

Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

2nd Principle: Democratic Member Control

Cooperatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary cooperatives members have equal voting rights (one member, one vote) and cooperatives at other levels are also organised in a democratic manner.

3rd Principle: Member Economic Participation

Members contribute equitably to, and democratically control, the capital of their cooperative. At least part of that capital is usually the common property of the cooperative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their cooperative, possibly by setting up

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reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the cooperative; and supporting other activities approved by the membership.

4th Principle: Autonomy and Independence

Cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy.

5th Principle: Education, Training and Information

Cooperatives provide education and training for their members, elected representatives, managers and employees so they can contribute effectively to the development of their cooperatives. They inform the general public – particularly young people and opinion leaders – about the nature and benefits of cooperation.

6th Principle: Cooperation among Cooperatives

Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional and international structures.

7th Principle: Concern for Community

Cooperatives work for the sustainable development of their communities through policies approved by their members.

Electric Co-ops USA

Electric co-operatives in the USA are member-owned electric utility businesses, incorporated under the laws of the states in which they operate, established to provide at-cost electric service and are governed by boards of directors elected by members.

- 875 electric distribution and retailing co-operatives serve 32 million people in 46 states.
- 60 generation & transmission co-operatives are owned by their member distribution and retailing co-operatives.
- Electric co-operatives serve 11% of the nation's population.
- Electric co-operatives own and maintain nearly 45% of the electric distribution lines in the USA
- Electric co-operative assets exceeded \$62 billion USA in 1997.
- Co-operatives serve an average of 5.8 consumers per mile of line.

Many electric co-operatives are involved in community development and revitalization projects e.g.

- Small business development
- Job creation
- Improvement and/or management of water and sewer systems
- Assistance in the delivery of health care
- Assistance in the delivery of educational services

In 1997 there were 3190 electric utilities in the USA:

- 935 co-operatively owned
- 242 investor owned
- 2013 publicly owned

The NRECA has been involved in the following formations:

- 1954 National Telephone Cooperative Association
- 1969 National Rural Utilities Cooperative Finance Corporation
- 1986 National Rural Telecommunications Cooperative
- 1987 National Rural Health Network

Energy Consumer Bill of Rights

This philosophy of aggregation as a means of consumer self-empowerment has been expressed in the following resolution electric co-operatives in the USA have adopted on an electric energy consumer bill of rights at the 57th Annual Meeting of the National Rural Electric Cooperative Association in March 1999:

- The right to have access to reliable, affordable and safe electric power. The availability of reliable, affordable and safe electric power is a necessity for life issue, as well as an important factor that drives the country's economic engine. Consumers have a right to expect reliable, affordable, and safe electric power. Consumers have a right to expect uniform standards of electric power across the country as they travel or move. Each sector of the electric utility industry is different: each is structured differently, financed differently and, aside from the provision of electric service, organised for different purposes. All electric utilities receive federal assistance and the form of federal assistance is different for each sector. In an era of competition, consumers should expect to have many choices. However, all energy providers should have the obligation to provide reliable, affordable and safe electric power. The obligation of lawmakers is to recognise the differences among electric utilities and to treat them differently in legislation.
- The right to join together to establish and operate a consumer-owned not-for-profit electric utility. Current consumer protection depends on government regulation, local service territories, and voluntary cooperation among thousands of utility systems are allowed to become huge combines remote from local consumers, and where energy providers are free to choose the customer class that provides them the most profit, consumers must have a way to protect themselves. All electric consumers must have a way to protect themselves. All electric consumers must have the right to join together to establish and operate a consumer-owned electric system to provide themselves with electricity according to their own needs.
- The right of consumer-owned not-for-profit systems to be treated fairly and recognised as a unique form of business. Electric cooperatives (co-ops) are independently owned business enterprises incorporated under the laws of the state in which they operate. Electric cooperatives are owned and controlled by the consumers they serve. The co-op difference resides in consumer ownership and control. Thus, for co-ops to be treated fairly by government regulation, they must be recognised as a unique form of business, different from investor-owned or community-owned systems. As recognised by the federal courts, since the consumer owns the cooperative, there is no motive for the cooperative to mislead, cheat, overcharge or act in any way that is not in the consumer-owners' interests.
- The right to elect representatives to manage their consumer-owned forms of business to best meet their needs. Electric cooperative consumers (members)

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- participate in the operation of the co-op by electing a board of directors from among its co-op consumers to establish the co-op's basic policies, goals and strategies, as well as to determine the rates and types of service(s) they wish to receive. In a competitive environment, consumer-owned and controlled cooperatives will be a more discipline in the marketplace and a more important force for innovation as long as local ownership, local control and local autonomy are not abridged through unnecessary government regulation.
- The individual right to privacy that assures information about consumers will not be released without their prior express consent. Historically, consumer-owned cooperatives have advocated levels of information disclosure beyond industry standards but necessary for judging the performance of utility systems. Recently, however, discussions on energy policy have included the idea that utility systems should be required to collect and divulge extraordinary consumer specific information. Consumers should have the right to determine how information collected about them is used. Consumer-owned cooperatives should not be required to collect or to divulge consumer specific information.
- The right to determine the scope of energy services to be furnished through their consumer-owned not-for-profit utilities. In a competitive environment, consumer-owned cooperatives, with their local ownership, local control and local autonomy provide a fast, efficient and flexible way for consumers to address their needs.
- The right to use consumer-owned not-for-profit utilities to provide additional services that meet the needs of their consumers and communities. All electric consumers must have the right to join together to establish and operate a consumer-owned electric system, if they so choose. In addition, consumers must retain the right to use their cooperatives as a means to meet their needs and expectations over time.
- The right to work in cooperation with other consumer-owned entities with common goals. Consumer-owned cooperatives should be able to work together to provide a countervailing balance of power in the marketplace to the huge investor-owned combines that are likely to result from deregulation. Consumer-owned cooperatives should be able to work together to provide an open window into the operation of a competitive electric market for all consumers. Consumer-owned, not-for-profit cooperatives should be able to work together to provide a 'yardstick' by which all consumers can measure the performance of the market and market participants.

This consumer bill of rights is centered on consumer self-empowerment – not consumers being protected by the enlightened self-interest of others. Enlightened self-interest is relevant but not as an alternative to self-empowerment.

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